

**MEDICAL EXAMINING BOARD
REGULAR MEETING
MAY 21, 2003**

MEMBERS PRESENT: Drs. Lief Erickson (by telephone for part of the meeting), Alfred Franger, Ronald Grossman, Sidney Johnson, Sandra Mahkorn, Daniel Miota, Clark Olsen, Bhupinder Saini, Darold Treffert, and Virginia Heinemann

MEMBERS EXCUSED: Karen Kalishek

STAFF PRESENT: Tom Ryan, Bureau Director; Wayne Austin, Legal Counsel; Pamela Meicher, Program Assistant; and DOE staff for parts of the meeting

GUESTS: Mark Grapentine, WI Medical Society; Shelly Raebel, Purdue Pharma

CALL TO ORDER

Chair Sidney Johnson called the meeting to order at 8:05 a.m.

APPROVAL OF AGENDA

Amendments: “A Measure of Health Care Quality for Wisconsin Medicare Patients” (D)
Page 5 of the Objections and written Argument – Dr. James Deming (G)
Issue Two Complaints (Q)
Death Cases and Three Year Cases Reports
Exam Issues (Perfusionists Exam and Possible Cheating)

MOTION: Clark Olsen moved, seconded by Bhupinder Saini, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES APRIL 23, 2003

MOTION: Clark Olsen moved, seconded by Bhupinder Saini, to approve the minutes of April 23, as written. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

DOE attorney Jack Zweig, presented a proposed stipulation in the matter concerning John D. Whelan, MD. This matter will be deliberated on in closed session.

DOE attorney Jack Zweig and James L. Flowers, M.D. presented oral arguments in the matter concerning James L. Flowers, MD. This matter will be deliberated on in closed session.

DOE attorney Gilbert Lubcke and Attorney Patricia J. Epstein presented oral arguments in the matter concerning James R. Deming, M.D. This matter will be deliberated on in closed session.

PETITION FOR RECONSIDERATION – MILAN JAECKLE, M.D.

No new information was presented in the matter of Milan Jaeckle, M.D.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

The Board noted that the Buegel case is closed and the Board's Order is affirmed; and the Suster case has been referred to the Administrative Law Judge.

Dr. Darold Treffert provided the Board with information on a change in statutory language where the terms "physician" and "chiropractor" could become interchangeable in statutory language. After a brief discussion the Board made a motion to support the following language change in opposition to AB 356, the Chiropractor Bill.

MOTION: Darold Treffert moved, seconded by Bhupinder Saini, move that the Medical Examining Board oppose the use of the terms "physician" and "chiropractor" interchangeably in statutory language in all instances. It is the position of the Medical Examining Board that the terms "physician" and "chiropractor" should remain separately defined, and used, in Wisconsin statutes as they presently are. If the intent of any proposed legislation is to expand the scope of practice, tests, procedures or certifications that chiropractors can carry out, the term "chiropractor" should be explicitly used in such proposed language, as it is in certain provisions in present statutes, and the term "physician" should remain limited in all instances, as it is in present Wisconsin Statute 448.01(5), to "an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the medical examining board". Motion carried unanimously.

MEB RESPONSE TO PUBLIC CITIZEN REPORT

The Board discussed the Public Citizen Report. The Board believes the article is inaccurate, including ranking Wisconsin as 49th in the United States in health care patient safety. The Board believes that Wisconsin's ranking in the Public Citizen Report is misleading and inaccurate.

Dr. Johnson provided the Board with an article, "A Measure of Health Care Quality for Wisconsin Medicare Patients". The article was written for the Journal of the American Medical Association (JAMA), January 15, 2003. The report employs 22 quality of care indicators. Using the Medicare data, physicians in Wisconsin ranked 8th overall in a national study of all states and Puerto Rico.

REPORT OF SCREENING COMMITTEE

Virginia Heinemann reported the Screening Committee reviewed 39 cases. Eleven cases were opened, 28 complaints were not opened.

RECESS TO CLOSED SESSION

MOTION: Ronald Grossman moved, seconded by Daniel Miota, to recess to closed session pursuant to Chapter 19.85 (1)(a), (b), (f), and (g), Wis. Stats, for deliberation of proposed stipulations, issuing complaints, deliberation of proposed decision, deliberation in petition for reconsideration, requesting stay of suspensions, request full licensure, administrative warning, approval of monitors, petition and request for extension of time, reviewing case status, granting licenses and consulting with legal counsel. Roll call vote: Drs. Lief Erickson – yes, Alfred Franger – yes, Ronald Grossman – yes, Sidney Johnson – yes, Sandra Mahkorn – yes, Daniel Miota – yes, Clark Olsen – yes, Bhupinder Saini –yes, Darold Treffert - and Virginia Heinemann. Motion carried unanimously.

Open session recessed at 10:00 a.m.

PROPOSED STIPULATION

JOHN D. WHELAN, MD

MOTION: Clark Olsen moved, seconded by Virginia Heinemann, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation in the matter of John D. Whelan, M.D. Case Adviser Darold Treffert abstained. Motion carried.

JAMES L. FLOWERS, MD

MOTION: Clark Olsen moved, seconded by Alfred Franger, to adopt the Findings of Fact in the matter of James L. Flowers, MD. Motion carried unanimously.

MOTION: Clark Olsen moved, seconded by Ronald Grossman, to adopt the Conclusions of Law in the matter of James L. Flowers, MD. Motion carried unanimously.

MOTION: Clark Olsen moved, seconded by Alfred Franger, to adopt the Stipulation in the matter of James L. Flowers, MD. Motion carried unanimously.

MOTION: Clark Olsen moved, seconded by Darold Treffert, to adopt the Order in the matter of James L. Flowers, MD. A roll call vote take with all voting aye. Motion carried unanimously.

PROPOSED DECISION

JAMES R. DEMING, MD

MOTION: Clark Olsen moved, seconded by Daniel Miota, to dismiss the case in the matter of James R. Deming, MD. Case advisor Ronald Grossman abstained. Motion carried.

PETITION FOR RECONSIDERATION

MILAN A. JAECKLE, MD

MOTION: Clark Olsen moved, seconded by Ronald Grossman, to deny the petition for reconsideration in the matter of Milan A. Jaeckle, MD. Virginia Heinemann abstained. Motion carried.

STAY OF SUSPENSION

RAYMOND S. KOZIOL, MD

MOTION: Darold Treffert moved, seconded by Ronald Grossman, to grant a three month stay of suspension in the matter of Raymond S. Koziol MD, and to have a letter sent to him advising him not to prescribe to his family or himself. Motion carried unanimously.

ADMINISTRATIVE WARNING

99 MED 317

MOTION: Darold Treffert moved, seconded by Virginia Heinemann, to affirm the Administrative Warning in case 99 MED 317. Motion carried unanimously.

REQUEST FOR CHANGE IN DOCTOR

MICHAEL A. DEHNER, MD

MOTION: Sandra Mahkorn moved, seconded by Alfred Franger, to approve the change in psychiatrist to Cathy Friend for insurance purposes and to change his AODA counselor to Dottie Winch. Motion carried unanimously.

APPEARANCE – KENNETH E. SPARR, MD

Annual appearance of Kenneth E. Sparr, M.D., with no action taken.

STAY OF SUSPENSION

DAVID D. DARCY, MD

MOTION: Ronald Grossman moved, seconded by Daniel Miota, to approve the three month stay of suspension in the matter of David D. Darcy, MD, and to waive his requirement to attend caduceus group. Motion carried unanimously.

REQUEST FOR REINSTATEMENT

THOMAS M. ROWE, MD

MOTION: Alfred Franger moved, seconded by Daniel Miota, to grant reinstatement of license to Thomas M. Rowe, MD. Motion carried unanimously.

APPROVAL OF MONITORS

ROBERT A. VINCENT, MD

MOTION: Darold Treffert moved, seconded by Daniel Miota, to approve monitors Dr. Patrick Turski and Dr. Michael Damm in the matter of Robert A. Vincent, MD. Motion carried unanimously.

PETITION AND REQUEST FOR EXTENSION OF TIME

01 MED 074

MOTION: Darold Treffert moved, seconded by Alfred Franger, to approve the petition and request for extension of time in case 01 MED 074. Motion carried unanimously.

PROPOSED STIPULATION

MICHAEL R. SEITZINGER, MD

MOTION: Clark Olsen moved, seconded by Sandra Mahkorn, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation in the matter of Michael R. Seitzinger, MD. Motion carried unanimously.

ISSUE A COMPLAINT

MOTION: Clark Olsen moved, seconded by Alfred Franger, that there is probable cause to believe that the licensees in 02 MED 200 are guilty of unprofessional conduct and that complaints be issued and hearings held. Case advisor Sidney Johnson abstained. Motion carried.

GRANT LICENSURE

MOTION: Alfred Franger moved, seconded by Clark Olsen, to deny licensure by endorsement based on the probable cause that someone cheated on the state

exam and that a letter be sent to Paul Scott and Blake Lemke advising them of the denial. Motion carried unanimously.

CASE STATUS REPORT

MOTION: Clark Olsen moved, seconded by Lief Erickson, to close complaint **00 MED 047** for prosecutorial discretion. Case advisor Alfred Franger abstained. Motion carried.

MOTION: Alfred Franger moved, seconded by Clark Olsen, to close complaint **02 MED 480** for no violation. Case advisor Virginia Heinemann abstained. Motion carried.

MOTION: Clark Olsen moved, seconded by Ronald Grossman, to close complaint **02 MED 147**, for prosecutorial discretion. Case advisor Leif Erickson abstained. Motion carried.

MOTION: Ronald Grossman moved, seconded by Clark Olsen, to close complain **02 MED 248**, for no violation. Case advisor Lief Erickson abstained. Motion carried.

MOTION: Lief Erickson, seconded by Bhupinder Saini, to close complaint **03 MED 010**, for prosecutorial discretion. Case advisor Clark Olsen abstained. Motion carried.

MOTION: Clark Olsen moved, seconded by Ronald Grossman, to close complaint **02 MED 240**, for no violation. Case advisor Sidney Johnson abstained. Motion carried unanimously.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Alfred Franger moved, seconded by Clark Olsen, to ratify the applicants as licensed to practice medicine and surgery in the State of Wisconsin. Motion carried unanimously.

MOTION: Alfred Franger moved, seconded by Clark Olsen, to ratify the applicants as licensed to practice as physician assistants in the State of Wisconsin. Motion carried unanimously.

MOTION: Alfred Franger moved, seconded by Clark Olsen, to ratify the applicants as certified as respiratory care practitioners in the State of Wisconsin. Motion carried unanimously.

EXAM ISSUE

Darwin Tichenor of the Exam office addressed the Board with an exam question. Mr. Tichenor wanted to know if he could remove three questions from the Perfusionist Examination until

Wisconsin Administrative Code MED 22 goes into affect. That would leave 39 questions on the exam.

MOTION: Darold Treffert moved, seconded by Alfred Franger, to remove three questions of the 42 off of the Perfusionist Exam until MED 22 goes into affect. Motion carried unanimously.

RECONVENE IN OPEN SESSION

MOTION: Alfred Franger moved, seconded by Clark Olsen, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 12:52 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

MOTION: Clark Olsen moved, seconded by Alfred Franger, to vote to accept all motions made during closed session. Motion carried unanimously.

ADJOURNMENT

MOTION: Alfred Franger moved, seconded by Clark Olsen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:56 p.m.